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SUBJECT: HUMAN RIGHTS OMBUDSMAN GIVEN ADDITIONAL POWERS

Classified By: DCM Daniel A. Russell: 1.4 (b) and (d).

¶1. (SBU) Summary. On October 16, President Putin signed into law amendments to the Federal Constitutional Law on the Human Rights Commission, which considerably broaden the Human Rights Ombudsman Office's powers. The new legislation gives the Ombudsman the right to propose parliamentary probes into reported mass or flagrant human rights abuses, and to call for Duma hearings into the violations of citizens' rights. While calling the development positive, human rights activists believe the Ombudsman will be too cautious in approaching the Duma. Our experience is that Lukin is no rubber-stamp and will likely use his new powers pragmatically. End Summary.

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Human Rights Ombudsman's New Powers  
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¶2. (SBU) The new law was passed in quick succession by the State Duma on September 22, the Federation Council on October 6, and signed by Putin on October 16. According to the law, in cases of mass or flagrant violations of rights and freedoms guaranteed by the Russian Constitution, the Ombudsman can now propose that the State Duma create a parliamentary commission to investigate the facts and circumstances of the alleged human rights abuse. Secondly, he has the right to participate in meetings of both houses of parliament when they present the final results of an investigation. Thirdly, he can call for State Duma hearings into violations of citizens' rights and freedoms and participate in such hearings.

¶3. (SBU) Human Rights Ombudsman Lukin reported that these new powers were a long time coming. Since 1997, there has been a provision in the Russian Constitution that allows the Ombudsman to propose initiatives in the event of mass or flagrant human rights abuses, in particular to suggest that the Federal Assembly conduct an investigation. However, there was no federal legislation for realizing that provision, which led to confusion in the past. About two years ago, when Lukin asked the State Duma to conduct a meeting to consider an investigation into human rights abuses in Bashkiriya, it refused, saying that he did not have the legal authority to make such a request. Lukin said the new law makes it absolutely clear that the initiative in such cases now belongs with the Ombudsman.

¶4. (SBU) Lukin added that there were other draft provisions before the Duma that have not yet been accepted. For instance, his office has proposed including in the Human Rights Commission Law and in the Criminal-Procedural Code a provision on the administrative responsibility of the authorities if they choose to ignore the Ombudsman's opinion. Such a law has been adopted in several regions and has worked well, he said. Another example is the law on prison inspections, which passed the first reading several years

ago, but has been shelved. Under that law, the Ombudsman would play an active role in the inspections.

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NGO Reactions  
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15. (C) President of the Center for the Development of Democracy and Human Rights Yuriy Dzhibladze told us that the new law was a positive development from a legal and political perspective, given the "limited powers that the Ombudsman has under the law in general." However, he questioned how much the new mechanism will be used in practice. He explained that the creation and powers of parliamentary investigation commissions in the State Duma are not well-regulated by law, and generally the Duma (as well as the Presidential Administration, which effectively controls the Duma) is reluctant to create such commissions for fear of negative political consequences. He pointed to the Beslan commission, which has delayed publishing its report several times. Dzhibladze added that Lukin tends to be cautious and will not do anything to irritate the Presidential Administration; he would "always talk to them first before making a bold move."

16. (C) Both human rights NGO Sova Deputy Director Galina Kozhevnikova and Memorial's Grigoriy Shvedov thought that the Duma will find a way to ignore the new provisions and that it is unlikely the Ombudsman will ever invoke them without prior approval by the Presidential Administration. Moscow Carnegie Center Scholar-in-Residence Nikolay Petrov agreed that Lukin was unlikely to antagonize authorities with his new powers, which will be used more as a threat than in reality.

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Comment

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17. (C) While it is a positive development that the Human Rights Ombudsman's powers have been expanded, it remains to be seen whether or not they will be invoked. Lukin is not as outspokenly critical as many civil society activists would like, but he is not a rubber-stamp Ombudsman. He will likely use his new powers pragmatically to subtly influence his dealings with the Kremlin and Duma. He has taken important stands on key human rights issues, and has a well-developed sense of what is realistically doable in today's Russia. End Comment.

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